

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NEIL JOHNSON,

Plaintiff,

- against -

Warden J. KILLIAN,
and Chaplain RABBI LASKIN,

Defendants.

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DOUGLAS F. EATON, United States Magistrate Judge.

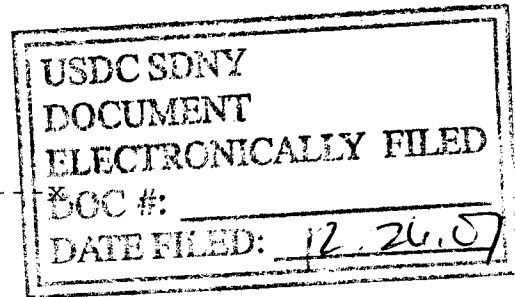
My November 30, 2007 Memorandum and Order said, in part:

I direct plaintiff to send to me, no later than **December 14, 2007**, a signed answer to the following question (along with a certificate that he has mailed a true copy to Li Yu, Esq.): "Is FCI Elkton violating plaintiff's right to perform congregational prayers?"

If plaintiff answers "yes," then I will recommend that Judge Swain transfer this lawsuit to the United States District Court for the Northern District of Ohio. If plaintiff does not answer "yes," then I will recommend that Judge Swain dismiss plaintiff's entire Complaint as moot.

On December 10, 2007, Mr. Johnson sent me a 2-page document entitled "Plaintiff's Response to Memorandum and Order." He repeated my question but did not answer it; hence I assume that his answer is "No," and that FCI Elkton is not violating his right to perform congregational prayers.

Mr. Johnson asserts that his lawsuit against the Warden of FCI Otisville is not moot, and he states two reasons. First, he says "there are other inmates currently of the Islamic Faith still confined at Otisville that are prepared to sign on as Plaintiffs in the pending action, hence a motion for class certification will be submitted in this action." However, a non-lawyer can never represent any class or any person other than himself. Accordingly, any inmate who feels aggrieved will have to file his own grievance, and then exhaust his administrative remedies, and then file his own lawsuit.

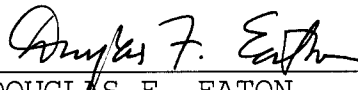


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MEMORANDUM AND ORDER

Second, Mr. Johnson says that, in his own lawsuit, he intends to name an additional defendant, namely the person who arranged his transfer from FCI Otisville (a medium security facility) to FCI Elkton (a low security facility). He claims this transfer was in retaliation for his "seeking to redress his grievance." As plaintiff has acknowledged, he must fully exhaust his administrative remedies on his retaliation claim. Therefore, I hereby allow plaintiff until March 20, 2008, to serve and file a motion asking for leave to serve a proposed Amended Complaint, and I hereby stay all other proceedings in this case until such a motion is served. His proposed Amended Complaint will have to explain how he was damaged by a transfer to FCI Elkton, which has lower security and allows him to perform congregational prayers.

If Mr. Johnson does not serve and file a timely motion asking me for leave to serve an Amended Complaint, then I will recommend that Judge Swain dismiss his lawsuit as moot.



DOUGLAS F. EATON
United States Magistrate Judge
500 Pearl Street, Room 1360
New York, New York 10007
Telephone: (212) 805-6175
Fax: (212) 805-6181

Dated: New York, New York
December 20, 2007

Copies of this Memorandum and Order are being sent to:

Neil Johnson
11679-014
Federal Correctional Institution-Elkton
P.O. Box 10
Lisbon, Ohio 44432

Li Yu, Esq.
Assistant United States Attorney
Southern District of New York
86 Chambers Street, 3rd Floor
New York, NY 10007

Hon. Laura Taylor Swain